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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,115	10/28/2003	Thomas Mysker	1776/40924 Case 7 TMM	6105

279 7590 04/21/2005

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EXAMINER
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PRICE, RICHARD THOMAS JR

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/695,115

**Applicant(s)**

MYSKER, THOMAS

**Examiner**

Thomas Price

**Art Unit**

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 01-14-2005 (1 PAGE)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Urban et al. U.S. Patent 5,024,041.

Urban et al. Teach a process for filling tubular casings comprising a filling horn adapted to receive extruded food products and having an outside diameter on which a tubular casing 26 is positioned. A shir housing having a diameter greater than said outside diameter of said filling horn and located coaxially to said filling horn and a netting tube 27 releasably attachable to said shir housing. Regarding claims 3 and 10, the process forms a product which is edible.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Urban et al. U.S. Patent 5,024,041.

Art Unit: 3643

Urban et al does not discuss the use of a clipper in combination with the device.

However, in regards to claims 2 and 9, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the apparatus of Urban et al with a clipper, in order to form individual links of sausages instead of a continuous strand.

Claims 4-7 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Urban et al U.S. Patent 5,024,041 in view of Underwood U.S. Patent 5,135,770. Urban et al do not discuss the use of flavoring or a dyed casing. Underwood teaches food casings having a flavoring and dyed quality. Regarding the claims, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the apparatus of Urban et al with a flavored casing, in view of Underwood, in order to provide additional flavoring to the edible product.

### ***Response to Arguments***

With regard to the Applicant's argument concerning whether or not the net of Urban will have a resultant diameter smaller than the diameter of the casing, the Examiner directs the Applicant's attention to column 1, second paragraph, in which the meat product is pressed into the casing under pressure enough to pull the casing off of the stuffing horn, and paragraph 4, in which it is known to apply a net to the outside surface of the casing. Column 2, paragraph 4, in which the reference to Urban discusses the expansion of the casing by the meat product under pressure. And it is explicitly taught that the filling diameter of the casing is adjustable. In column 4, paragraph 3, Urban teaches casing expands by the pressed in sausage meat and tightly

Art Unit: 3643

filled. The Applicant provides no actual measurements of the filled casing or the net in the specification, claims or drawings. The casing of Urban can vary in diameter depending on the pressure of the meat product. As such, whether or not the net has a smaller diameter than the filled casing is highly relative depending on the extremes selected. Therefore, the Examiner believes that the reference to Urban meets this broadly claimed feature.

Applicant's arguments filed 01-14-2005 have been fully considered but they are not persuasive.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Conclusion***

Summary: Claims 1-14 are rejected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Price whose telephone number is 571-272-6892. The examiner can normally be reached on Monday through Friday from 8:30a.m. to 5:00p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Thomas Price  
Primary Examiner GAU: 3643

rtp